

McNamara Declaration

Exhibit 40

From: Chris Butler
Sent: Monday, May 16, 2011 1:11 PM EDT
To: Zane Kesey
Subject: Re: Open Library use of Ken Kesey works

The digital lending feature had been disabled for all titles listed on that catalog page as of my last communication. If you continue to see the "Borrow" option for any books, it is now listing the libraries around the world where one may obtain a physical copy or, in rarer instances, a licensed digital copy. The listings are now simply pointing out to people where they might buy a copy or check out a copy from a library, as well as providing the standard card catalog information. They are also pointing to the daisy file option, available only the blind and print-disabled who have been registered and approved by the Library of Congress NLS.

Best Regards,
Christopher Butler
www.archive.org

Zane Kesey wrote:

Yep....remove these http://openlibrary.org/authors/OL449110A/Ken_Kesey


It is best to ask first!

At 05:06 PM 5/12/2011, you wrote:

I'm sorry to hear that you feel that way. The files are protected by software designed to prevent copying and to "kill" the file after a certain period. Currently, for example, we use a program called Adobe Digital Editions for pdf files, but we are always looking for solid, reliable non-proprity options.

It has gotten back to me that we are in plans with the California State Librarian to launch a joint project later this year or next to honor Californian authors. Your father would likely be near the top of the list. I'm sure we'll make an announcement at archive.org about the program as it comes to fruition.

Best Regards,

Christopher Butler

www.archive.org

Zane Kesey wrote:

No...that's just wrong! If they each have one it would work, Or you can do it with your local people. how doe you keep people from downloading it permanently?

At 11:10 AM 5/9/2011, you wrote:

It's limited to cardholders of the libraries that are participating in the program (city, county, and university libraries). These libraries pool their digital collections (along with materials scanned by Internet Archive) through our lending library service so that they can be loaned out to each other's cardholders. So far, the list is as follows (or see map w/ libraries here: <http://openlibrary.org/libraries>). Also, a lot more libraries from around the world have expressed interest in joining and the list will undoubtedly grow.

Allen County Public Library (14 branches)
Boston Public Library (26 branches)
Internet Archive (HQ in SF)
Marine Biological Laboratory, Woods Hole Oceanographic Institution
Atherton Library, Atherton, California
Bay Shore Library, Daly City, California
Belmont Library, Belmont, California
Brisbane Library, Brisbane, California
Burlingame Public Library, Burlingame, California
Burlingame Library Easton Branch, Burlingame, California
Cañada College Library, Redwood City, California
College of San Mateo Library, San Mateo, California
East Palo Alto Library, East Palo Alto, California
Fair Oaks Library, Redwood City, California
Foster City Library, Foster City, California
Grand Avenue Branch Library, South San Francisco, California
Half Moon Bay Library, Half Moon Bay, California
Hillsdale Branch Library, San Mateo, California
John Daly Library, Daly City, California
Marina Public Library, San Mateo, California
Menlo Park Library, Menlo Park, California
Menlo Park Library Belle Haven Branch, Menlo Park, California
Millbrae Library, Millbrae, California
Pacifica Sanchez Library, Pacifica, California
Pacifica Sharp Park Library, Pacifica, California
Portola Valley Library, Portola Valley, California
Redwood City Public Library, Redwood City, California
Redwood Shores Branch Library, Redwood City, California

San Bruno Library, San Bruno, California
San Carlos Library, San Carlos, California
San Mateo Public Library, San Mateo, California
Schaberg Library, Redwood City, California
Serramonte Main Library, Daly City, California
Skyline College Library, San Bruno, California
South San Francisco Public Library, South San Francisco, California
Westlake Library, Daly City, California
Woodside Library, Woodside, California
San Francisco Public Library (28 branches)
The Urban School of San Francisco
University of Alberta (8 libraries)
University of Florida (11 libraries)
University of Toronto (2 libraries)
Victoria University (3 libraries)

Zane Kesey wrote:

Interesting...I like the two weeks!

Is it only for card holders of your library?

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At 09:14 AM 5/9/2011, you wrote:

Hi Zane,

We appreciate your understanding around the daisy file for the blind and print-disabled.

Upon your insistence, we will disable lending access to protected Kesey titles, but I hope that you will hear us out and reconsider. I do want to be entirely clear that “Demon Box” is not available for “free download” in the broad sense of the meaning. It may only be borrowed by one patron at a time – what’s more is that the electronic copy can only be borrowed by a patron of a physical library that participates in our program (there is a blog post about the program and list of participating libraries here: <http://www.archive.org/post/349420/in-library-ebook-lending-program-launched>). The patron must access our site from the physical library’s network for this option to be available.

Thus, disabling this access would mean that an online library would be


prevented from allowing patrons to use a copy that can only be checked out one at a time for a two week period. After this period, the electronic copy expires and throughout is protected in a manner similar to how ebooks are protected when distributed by booksellers.

I understand that online reproduction is a huge issue and that many sites and operators are out there to make a buck, but Internet Archive simply is not. So that it is clearly stated, we do not stand to gain materially from lending your father's books to patrons.

We know that reasonable people can view this program differently than we do, but would especially like the Kesey books to be in this library because of his role in society and, frankly, because we are great admirers.

I would be so bold as ask if allowing one person every two weeks be able to read your father's books might help more than it would hurt. Thank you for your consideration, but as it stands we will take Kesey titles out of our lending library.

Regards,

Christopher Butler
Internet Archive

www.archive.org

Zane Kesey wrote:

Hi Chris

I am OK with the Daisy file!

Not OK with the copy created illegally that is used for free download illegally!

Do you have other illegal copies of Ken Kesey material on your site?
Asking first on either of these would have been advisable!

Zane

At 05:34 PM 5/5/2011, you wrote:

Hello,

I spoke earlier today on the phone with someone from your organization, I believe by the name of Zane (forgive me if I am mistaken). This gentleman had called to inquire about how Ken Kesey titles were being used on our site and provided me with a specific title name - Demon Box. This book is available in two very limited ways - the first is as an encryption-protected file in a specialized format (DAISY file) that works with devices designed to read aloud text for the blind and print-disabled. We do this in coordination with the Library of Congress' National Library Service for the Blind and Physically Handicapped (NLS), which provides registered and approved blind and print-disabled citizens with an encryption key that will enable the file to play. This is the same way the Library of Congress itself makes books of this sort available to this community.

Additionally, a single electronic copy of Demon Box is available to be borrowed by only one of our patrons at a time, either via streaming or digital rights management software (Adobe Digital Editions). This e-copy corresponds to a physical copy of the book which is NOT in use by anyone. As an officially recognized library by the State of California, we seek to make available titles in a manner analogous to traditional library lending using digital media and online communications. Moreover, for what it's worth, we are a non-profit, do not commercially exploit the materials in our collections, do not charge for access to our collections, and do not post paid advertisements on our site.

We hope that you would understand why we would be reluctant to remove this book before confirming that the conditions under which we make this book available are fully understood and appreciate whatever consideration this information affords the matter anew. Please let me know if you still take exception to this type of use.

Regards,

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Christopher Butler
Internet Archive


www.archive.org